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16
17 IN THE UNITED STATES DISTRICT COURT
18 FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

19 EQUAL EMPLOYMENT OPPORTUNITY
20 COMMISSION

21 Plaintiff,

22 v.

23 ALLSTAR FITNESS, LLC

24 Defendant.

25 CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

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28 NATURE OF THE ACTION

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30 COMPLAINT- Page 1 of 6

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This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Anna Patricia Martinez (“Ms. Martinez”) who was adversely affected by such practices. The Equal Employment Opportunity Commission alleges that defendant, Allstar Fitness, LLC (“Allstar Fitness”), subjected Ms. Martinez to a hostile work environment because of sex. The EEOC further alleges that Ms. Martinez was terminated in retaliation for opposing this discrimination. Plaintiff seeks monetary and injunctive relief, including pecuniary and nonpecuniary compensatory and punitive damages on behalf of Ms. Martinez.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. sections 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Washington at Seattle.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the

1 administration, interpretation and enforcement of Title VII, and is expressly authorized to
2 bring this action by Section 706(f)(1) of Title VII, 42 U.S.C. §2000e-5(f)(1).

3 4. At all relevant times, defendant Allstar Fitness has been a corporation
4 continuously doing business in the State of Washington and has continuously had at
5 least 15 employees.

6 5. At all relevant times, defendant Allstar Fitness has continuously been an
7 employer engaged in an industry affecting commerce within the meaning of Sections
8 701(b), (g) and (h) of Title VII, 42 U.S.C. §§2000e-(b), (g) and (h).

10 STATEMENT OF CLAIMS

11 6. More than thirty days prior to the institution of this lawsuit, charging party
12 filed a charge with the Commission alleging violations of Title VII by defendant Allstar
13 Fitness. All conditions precedent to the institution of this lawsuit have been fulfilled.

14 7. From at least October, 2008 through March, 2009, defendant Allstar
15 Fitness has engaged in unlawful employment practices at its West Seattle and Olive
16 Way facilities in Seattle, Washington in violation of § 703(a) of Title VII, 42 U.S.C. §
17 2000e-2(a) . The practices include subjecting Ms. Martinez to a hostile work
18 environment because of sex.

20 8. On or about and between March 6, 2009 and March 9, 2009, defendant
21 Allstar Fitness engaged in unlawful employment practices at its West Seattle location in
22 violation of § 704(a) of Title VII, 42 U.S.C. §§ 2000e-3(a). The practices include
23 subjecting Ms. Martinez to retaliatory termination once she protested this discrimination
24 complained of in paragraph 7.

25 **COMPLAINT-** Page 3 of 6

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9. The practices complained of in paragraphs 7 and 8 by Ms. Martinez were carried out by the Director of Facilities (“Director”) at defendant Allstar Fitness. The Director had hired Ms. Martinez and was the direct supervisor of Ms. Martinez.

10. The practices complained of in paragraphs 7, 8, and 9 by Ms. Martinez include, but are not limited to, the following: the Director sexually assaulted Ms. Martinez in a machine room at the West Seattle location on several occasions, each time telling her that if she reported the assaults to anyone, he would terminate her employment. In late February to early March 2009, the Director transferred Ms. Martinez to a different facility on Olive Way in Seattle, Washington where he sexually assaulted her again on several occasions and forced her to perform oral sex. After the sexual assault Ms. Martinez threatened to report him. The Director terminated Ms. Martinez a few days later on or about March 6, 2009.

11. Defendant Allstar Fitness did not provide charging party or any other employees with training or policies about sexual harassment and how to report it.

12. The effect of the practices complained of in paragraph 7 -11 above has been to deprive Ms. Martinez of equal employment opportunities.

13. The unlawful employment practices complained of in paragraph 7-11 above were intentional.

14. The unlawful employment practices complained of in paragraph 7-10 above were done with malice or with reckless indifference to the federally protected rights of the charging parties.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining defendant, its officers, successors, agents, assigns, and all persons in active concert or participation with it, from engaging in any employment practices which discriminate.

B. Order defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for all employees, and which eradicate the effects of its past and present unlawful employment practices.

C. Order defendant to make whole Ms. Martinez by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraph 7-11 above, including past and future out-of-pocket expenses, in amounts to be determined at trial.

D. Order defendant to make whole Ms. Martinez by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 7-11 above, including without limitation emotional pain, suffering, and loss of enjoyment of life, in amounts to be determined at trial.

E. Order defendant to pay Ms. Martinez punitive damages for its malicious and reckless conduct described in paragraph 7-11 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

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2 The Commission requests a jury trial on all questions of fact raised by its
complaint.
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5 DATED this 30th day of June, 2010.
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